

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Case No. 3:16-cv-00695

Baronius Press, Ltd.)
Plaintiff,)
)
v.)
)
)
Saint Benedict Press LLC,)
Defendant.)
)
)
)

**PLAINTIFF’S MOTION TO RECUSE THE HON. GRAHAM C. MULLEN, SENIOR
JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF NORTH CAROLINA**

Plaintiff Baronius Press, Ltd. (“Plaintiff”), by its undersigned counsel, respectfully moves this Honorable Court, requesting recusal of the Hon. Graham C. Mullen (“Judge Mullen”), Senior Judge of the United States District Court for the Western District of North Carolina (“Court”), on the grounds set forth in the above-captioned Motion (“Motion”) together with the Memorandum of Law filed in support of the Motion. Plaintiff met its obligation pursuant to LcvR 7.1(b) through electronic communications over the period Friday through Sunday preceding the date of filing. In particular, Plaintiff provided opposing counsel a prior draft of this Motion for review on Saturday. On Sunday, John Buchan, Esq., informed Mark Ishman that “Defendant does not intend to join in or otherwise consent to such a motion.”

The parties to this litigation appeared before this Court, Judge Mullen presiding, on October 3, 2018 (“Hearing”). At the Hearing, in addition to addressing other matters relating to the litigation, the Court heard and ruled on certain discovery matters. Towards the conclusion of the Hearing, as shown in the Transcript of Proceedings filed herewith as Motion Exhibit 1, the Court, in remarks directed specifically towards Defendant’s counsel (“you”), observed:

I know the family you represent and have high regard for them. I've known them for basically most of my life and so I believe what you're telling me.

Mot. Ex. 1, 31:9-11.

Plaintiff respectfully submits that the Court's quoted observations reflected or gave rise to circumstances calling for recusal of the presiding Judge. *See* 28 U.S.C. § 455(b)(1) (the Judge "shall ... disqualify himself" ... "[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings"); *see also* Code of Conduct for United States Judges, Canon 2A ("[a] judge should not allow family ... relationships to influence judicial conduct or judgment ..."); *Leto v. World Recovery Service, LLC*, 3:14-CV-489 (United States Dist. Ct., W.D.N.C., Order dated April 13, 2015); *State v. Short*, 1:15-CV-0044 (United States District Ct., W.D.N.C., Order dated January 11, 2016) ("[d]isqualification is required if a reasonable factual basis exists for doubting the judge's impartiality").

Accordingly, on the foregoing grounds, and as discussed further in the supporting Memorandum of Law, Plaintiff respectfully requests the recusal of Judge Mullen, and assignment of this litigation, including all pending matters other than this Motion, to a presiding judge free of potentially disqualifying connections with the parties or counsel appearing in this matter.

This is the 30th day of October, 2018.

/s/ Bikash Roy
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CERTIFICATE OF SERVICE

I, Bikash Roy, do hereby certify that I have served or caused to be served a copy of the foregoing pleading or paper by electronically filing the same through the Court's CM/ECF System which has notified or will notify all parties or counsel of record.

This is the 30th day of October, 2018.

/s/ Bikash Roy
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